

United States District Court
for the
Southern District of Florida

Carlos Angarita and)	
Paula Botero-Paramo, individually)	
and on behalf of their children, C.A.)	
and D.A., Plaintiffs,)	
)	Civil Action No. 23-20695-Civ-Scola
v.)	
)	
Hypertoyz, Inc. and Eric Marabini)	
d/b/a Hyperpowersports,)	
Defendants.)	

**Order Adopting Report and Recommendations and
on Final Default Judgment as to Liability**

The Court referred Plaintiffs Carlos Angarita and Paula Botero-Paramo, individually and on behalf of their children, C.A. and D.A.'s motion for partial default judgment to United States Magistrate Judge Jonathan Goodman for a report and recommendations. Thereafter, Judge Goodman issued his report and recommendations, recommending that the Court grant the Plaintiffs' motion, in large part. (Rep. & Rec., ECF No. 38.) Neither Defendant Hypertoyz, Inc., nor Defendant Eric Marabini, doing business as Hyperpowersports, have filed any objections and the time to do so has passed. The Plaintiffs, on the other hand, have filed limited objections, taking issue with Judge Goodman's recommendation that the damages issues be resolved via an evidentiary hearing as opposed to a jury trial. (Pls.' Objs., ECF No. 40.) Despite the lack of any real objection to Judge Goodman's substantive analyses and conclusions, the Court has nonetheless considered his report, the record, and the relevant legal authorities on a de novo basis. The Court finds Judge Goodman's report and recommendations thorough, cogent, and compelling.

The Court agrees with Judge Goodman that the Plaintiffs have established their entitlement to judgment in their favor as to all four counts of their complaint: strict liability (count one); breach of implied warranty (count two); violation of the Magnuson-Moss Warranty Act (count three); and negligence (count four). The Court also concurs with Judge Goodman's recommendation that the damages issues be resolved through an evidentiary hearing rather than via a jury trial. In their objections to this aspect of Judge Goodman's report, the Plaintiffs, in arguing that the Court should exercise its discretion to allow a jury to determine damages, as opposed to the Court, point to how important this case is to them and their desire to have their damages appropriately redressed. (Pls.'

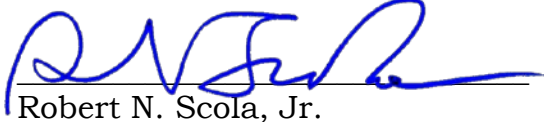
Objs. at 40.) The Court assures the Plaintiffs that, not only does the Court appreciate the importance of each case brought before it, but that the Court is also fully capable of appropriately assessing the amount of damages to which the Plaintiff may be entitled.

The Court thus **adopts** the report and recommendations in full (**ECF No. 38**), **overrules** the Plaintiffs' objections (**ECF No. 40**), and **grants, in large part**, the Plaintiffs' motion (**ECF No. 25**). Accordingly, the Court **enters final default judgment as to liability** in the Plaintiffs' favor, and against the Defendants.

The Court sets this case for an evidentiary hearing to determine the amount of damages on **Wednesday, February 21, 2024, at 8:30**, at the Wilkie D. Ferguson, Jr., United States Courthouse, 400 N. Miami Avenue, Courtroom 12-3, Miami, Florida. Additionally, the Court orders the Plaintiffs to file, on or before **February 13, 2024**, (1) a pre-hearing brief identifying the witnesses and exhibits they intend to present, including a summary of what they expect the evidence to show and how long they estimate the hearing will last; and (2) a proposed order on the damages award. The Court reserves jurisdiction to separately consider any motions for fees and costs.

The Court directs the Clerk to **mail and email copies of this order** to any Defendant who has not appeared at the addresses listed below.

Done and ordered in Miami, Florida, on January 30, 2024.


Robert N. Scola, Jr.
United States District Judge

Copies via U.S. mail to:

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c/o Eric Marabini, Registered Agent
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